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22 UNITED STATES DISTRICT COURT

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24 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

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26 STATE OF CALIFORNIA, *et al.*,
27 Plaintiffs,
28 v.
18 WILBUR L. ROSS, JR., *et al.*,
19 Defendants.

Civil Action No. 3:18-cv-01865-RS

**NOTICE OF DEFENDANTS'
POSITION REGARDING SUPREME
COURT PROCEEDINGS**

Dept: 3
Judge: The Honorable Richard G. Seeborg
Trial Date: January 7, 2019
Action Filed: March 26, 2018

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21 CITY OF SAN JOSE, *et al.*,
22 Plaintiffs,
23 v.
24 WILBUR L. ROSS, JR., *et al.*,
25 Defendants.

Civil Action No. 3:18-cv-02279-RS

**NOTICE OF DEFENDANTS'
POSITION REGARDING SUPREME
COURT PROCEEDINGS**

Dept.: 3
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2 At the closing argument on February 15, 2019, undersigned counsel stated that he had not
3 yet had an opportunity to confer with the Office of the Solicitor General about the effect of the
4 Supreme Court's Order granting certiorari before judgment in State of New York, et al. v.
5 Department of Commerce, et al., No. 18-cv-2921 (S.D.N.Y.). After consulting with the Solicitor
6 General, Defendants write to provide additional information that may inform how the Court
7 wishes to proceed in this case in light of the Supreme Court's order granting certiorari before
8 judgment in the New York case. In that case, the government's brief is now due in the Supreme
9 Court on March 6; the respondents' brief is due April 1; and oral argument is scheduled for the
10 second week of April. Because a ruling by the Supreme Court in the New York case will be
11 controlling, if not dispositive, in this case, the government respectfully submits that this Court
12 should consider deferring its ruling until proceedings in the Supreme Court are complete. If the
13 Supreme Court affirms the New York judgment, then this case will be moot; and conversely, if the
14 Supreme Court reverses, then that decision effectively will resolve this case given the scope of the
15 government's arguments and the overlap with the claims here.

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1 Dated: February 21, 2018

Respectfully submitted,

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3 Assistant Attorney General

4 *s/Brett A. Shumate*
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